

Town Clerk

**TOWN OF VERNON
Planning & Zoning Commission (PZC)
Minutes – Regular Meeting
Thursday, January 19, 2012, 7:00 PM
Council Chambers, Third Floor
Memorial Building
14 Park Place
Rockville/Vernon, CT**

RECEIVED
VERNON TOWN CLERK
12 JAN 31 PM 4:13

1. Call to Order & Roll Call

- ♦ Meeting was called to order at 7:01 P.M.
- ♦ **Regular Members Present:** Chester Morgan, Charles Bardes, Francis Kaplan, William Roch and Victor Riscassi.
- ♦ **Alternate Members Present:** None
- ♦ **Staff Present:** Leonard Tundermann, Town Planner, Harold Cummings, Town Attorney
- ♦ **Recording Secretary:** James Krupinski

2. Administrative Actions/Requests

2.1 Amendment/Adoption of Agenda - Additional business to be considered under agenda item #6 "Other Business"

- ♦ Charles Bardes, seconded by Francis Kaplan moved a motion to Adopt the Agenda as amended through January 18, 2012. Motion carried unanimously.

2.2 Communications received NOT related to Agenda items

- ♦ None

2.3 Acceptance of Minutes

- ♦ None

3. Public Hearings

3.1 Application [PZ-2011-17] of the Town of Vernon to change various sections of the Vernon Zoning Regulations to remove various uses from sections requiring special exceptions and/or special permits and place them in sections permitting uses by right.

- ♦ Chester Morgan, Chairman read the standards for presenting testimony for the application.
- ♦ Leonard Tundermann, Town Planner read the Legal Notice into the record.

To be published in the Journal Inquirer on January 7, 2012 & January 14, 2012.

*Public Notice
Town of Vernon*

The Vernon Planning & Zoning Commission (PZC) will hold the following public hearing at its regular meeting at 7:00 PM on Thursday, January 19, 2012, in the Town Hall Council Chambers on the Third Floor of the Town Hall at 14 Park Place, Rockville/Vernon:

Application [PZ-2011-17] of the Town of Vernon to change various sections of the Vernon Zoning Regulations, as indicated below, to remove various uses from sections requiring special exceptions and/or special permits and place

them in sections permitting uses by right. Changes, other than renumbering, are proposed to the following sections of the Zoning Regulations:

- 4.9 Commercial: subsections 4.9.2, Permitted Uses; 4.9.3, Special Exceptions; 4.9.4, Special Permits*
- 4.10 Industrial: subsections 4.10.2, Permitted Uses; 4.10.4, Special Permits*
- 4.17 Historic District - Residential Commercial: subsections 4.17.2, Permitted Uses; 4.17.3, Special Permits*
- 4.19 Historic District Industrial: subsections 4.19.2, Permitted Uses; 4.19.3, Special Permits*
- 4.20 Special Development Zone - Economic Development: subsections 4.20.2, Permitted Uses; 4.20.3, Special Exceptions; 4.20.4, Special Permits*
- 4.21 Planned Commercial Zone: subsections 4.21.3, Permitted Uses; 4.21.5, Special Permits*
- 4.23 Historic District - Downtown Business & Residential (DBR): subsections 4.23.3, Permitted Uses; 4.23.5, Special Permits*
- 20 Aquifer Protection: subsection 20.3, Delineation of Aquifer Protection Zone*

This PZC application is available for inspection by the public in the office of the Town Clerk, Memorial Building/Town Hall, 14 Park Place, Rockville, CT; and at the Planning Department, 55 West Main Street, Rockville, CT.

*Chester Morgan, Chairperson
Planning & Zoning Commission (PZC)*

- ♦ Correspondence:
 - Referral Letter from the Capitol Region Council of Governments (CROCG) dated January 18, 2012 regarding update to Vernon Zoning Regulation. (Read into the Record – Attachment A)
 - Deb Wilson, 6 Liberty Street – Letter received on January 18, 2012 in opposition to the proposed Zoning Regulation Amendments. (Read into the Record – Attachment B)
 - David J. McQuade, 20-13 Whitney Ferguson Road – Letter dated January 19, 2012 in opposition to the proposed Zoning Regulation Amendments. (Read into Record – Attachment C)
 - Robert B. Hurd, 7 Rheel Street – Letter dated January 19, 2012 in opposition to the proposed Zoning Regulation Amendments. (Read into Record – Attachment D)
- ♦ John D. Ward, Town Administrator 14 Park Place:
 - Three components for proposed changes: Housekeeping for current regulations for statutory compliance; Removal of minor inconsistencies; Changes in accordance with the Goals of the Economic Development Commission, to streamline and improve the application process.
- ♦ Attorney Justin Clerk, Blackwell, Davis & Spadaccini:
 - Review of the Regulations for compliance with the State Law:
 - Review internal inconsistencies and to correct;
 - Streamline the process with the Health, Safety and welfare of the Town of Vernon in mind for Growth and Development.
 - Attempted to draft based on consistency with the Draft Plan of Conservation and Development and the overall goals of the Town.
 - No new uses are created.
 - No changes to enforcement or application review.

- ♦ Charles Bardes questioned the reasoning for moving Special Permit Uses into Permitted Uses and the justification for the change.
- ♦ Justin Clark – 4.19.2 – added five (5) permitted uses to the Zone from Special Permits. Changes made based on character of the areas affected and existing use in other zones.
- ♦ Chester Morgan spoke to comments made at the Town Council Meeting regarding changes being proposed. John Ward, Town Administrator indicated comments were fairly accurate. Stated that there was no subversion of the amendment process.
- ♦ Charles Bardes questioned reasoning for carryover zoning from multiple zones. Mr. Bardes also questioned how the public would have input into the process if the uses all become permitted in the respective zone.
- ♦ John Ward, Town Administrator indicated that the proposed change of adding references to other zone permitted uses was used to save on formatting. Public would receive input through the Town Staff for appropriate uses instead of the Commission through the Public Hearing process.
- ♦ Staff Input:
 - Leonard Tundermann, Town Planner reviewed Staff Memorandum dated January 12, 2012 regarding proposed amendments. (Attachment E)
 - Need to review changes to allow permitted uses to reference to other zones for consistency.
- ♦ Harold Cummings, Town Attorney:
 - Indicated the commission would still have the site plan review process.
 - Clarified that Special Permits do have greater scrutiny, they are a permitted use by law.
 - Should review uses to determine applicability in the Zone.
- ♦ Leonard Tundermann, Town Planner indicated that any individual has the ability to submit an application to the commission to amend the Town regulations and the commission would act within the required timeline under the statutes.
- ♦ Charles Bardes questioned who would determine what applications would be brought before the commission.
- ♦ Harold Cummings, Town Attorney indicated that the commission would need to determine what they would like to review based upon the regulations. Should follow CGS §8-7d for action but does not believe strict adherence is necessary.
- ♦ Chairman called for Intervenor - None
- ♦ Recess at 7:55 P.M.
- ♦ Meeting reconvened at 8:05 P.M.
- ♦ Public Input (8:05 P.M.):
 - Marie Herbst, 245 Brandy Hill Road:
 - Objects to the use of an Elected Office to change the regulations of the Planning and Zoning Commission.
 - Suggests denying the application as presented.
- ♦ Lance Chernack, 50 Cubes Drive:
 - Spoke to the process of completing the Plan of Conservation and Development prior to updates to the regulations.
 - Believes the commission should review its own regulations during the proper process and under its own jurisdiction.
- ♦ Ronald Burke, 507 Bolton Road:
 - Concerned with “Quality of Life” in Vernon.
 - Special Permit process enhances the “Quality of Life” and protects the Town.
 - Concerned with the loss of public input during the application process.

- ◆ **Tom Didio, 112 Box Mountain Drive:**
 - Feel proposed changes are flawed.
- ◆ **Polly Schaefer, 1A Fox Hill Drive:**
 - Requests that the commission undertake the changes to the regulations and completing the Plan of Conservation and Development.
- ◆ **Karen Wassel, 5 Pineview Drive, VRCD Member:**
 - Read into the Record memorandum from Branse, Willis & Knapp, LLC regarding the proposed amendments. (Attachment F)
 - Spoke to the effect of the proposal infringing her rights as a citizen.
- ◆ **Maryanne Levesque, 183 Bolton Road:**
 - Requesting that the commission deny the zone(s) change application.
 - Special Permit process should not be ignored.
- ◆ **Scott Wieting, 64 Valley Falls Road, Conservation Commission Chairman:**
 - Read Letter into the Record regarding Conservation Commission duty to review and make comment on language changes to regulations. (Attachment G)
 - Spoke individually requesting the commission to review the proposed regulations in greater depth.
- ◆ **David Hermann, 521 Bolton Road:**
 - Opposed to the proposed regulations as presented because they remove the commission review of applications.
- ◆ **Lynda Morhardt, 114 Valley Falls Road:**
 - Disappointed with the document presented to the commission to review. Did not believe the document assisted with streamlining or clarifying the review process.
- ◆ **Janine Gelineau, 28 Anchorage Road:**
 - Opposed to silencing the voice of the people in the review process.
- ◆ **Jennifer Roggi, 2 Pineview Drive:**
 - Concerned with the loss of the public input.
 - Special Permit regulations would not longer be applied to protect its residents.
 - Supports the commission being part of the process of reviewing/rewriting the regulations.
 - Supplied copy of the Town Charter provisions regarding the Town Planner and its role in the process of amendments. (Attachment H)
 - Supplied Engagement Letter with Davis, Blackwell & Spaduccini relative to the Zoning Regulation re-write executed by Mayor Jason L. McCoy. (Attachment I)
 - Supplied Adopted Job Description Economic Development Coordinator. (Attachment J)
 - Supplied a Side Letter and Appointment Letter for Shaun Gately, Economic Development Coordinator and spoke to possible ethical conflict. (Attachment K)
 - Supplied Minutes of the October 20, 2011 Planning and Zoning Commission meeting. (Attachment L)
 - Supplied Letter of Opposition dated January 19, 2012 (Attachment M)
- ◆ **Ann Letendre, 29 Gottier Drive:**
 - Read letter into the record from Attorney Amy Blaymore-Patterson and supplied for the record. (Attachment N)
 - Active in Land Use commission in the Town of Vernon for 40 years;
 - CGS § 8-3a requires that regulation changes comply with the Plan of Conservation Development.
 - Amendments as presented are inconsistent with either the adopted or draft Plan of Conservation and Development. Quoted specific requirements in each POCD to receive public input.

- Suggests denying the application and utilize the document to assist in the full rewrite of the Zoning Regulations.
- ♦ Sheryl McMullen, 564 Bolton Road:
 - Suggests denial of proposed changes as presented.
 - Suggests that the commission begin its own complete review of the Zoning Regulation without being encumbered by approval time limits.
- ♦ Thomas Joyce, 49 Hale Street Ext.
 - Spoke about the proper process to review applications.
 - Should keep the Special Permit requirements in place for appropriate review.
- ♦ David Perry, 26 Emma Lane:
 - Concerned with the removal of the Public Hearing process in reviewing applications.
- ♦ Dot Tedeschi, 15 Allen Drive:
 - Proposed regulations do not comply with the Special Permit criteria.
 - Changes would remove a voice for residents adjacent to development.
- ♦ Staff Input:
 - Harold Cummings clarified that no individual is barred from testifying before any commission when acting to review its regulations.
- ♦ Rebuttal & Summation:
 - John Ward, Town Administrator:
 - Stated that the Town Planner was invited to participate in the regulation review process.
 - Spoke to the work ethic relative to Shaun Gately, Economic Development Coordinator.
- ♦ Justin Clark indicated that the proposed regulations do not roll into all regulation zones.
- ♦ Charles Bardes questioned if the Planning Department would have adequate staffing to act administratively on applications.
- ♦ Leonard Tundermann, Town Planner indicated that the Staff Development Review meeting process would continue.
- ♦ Site Plan review would be a ministerial process and if it were to comply would be approved.
- ♦ Special Permit review would be a Judicial review by the commission to apply the Special Permit criteria for compliance.
- ♦ Chester Morgan questioned the changes made in the Engagement letter relative to strikeouts.
- ♦ John Ward indicated that changes were made after consultation with former Mayor McCoy and himself.
- ♦ Chester Morgan thanked the public for the non-adversarial presentations made to the commission relative to the proposed changes.
- ♦ Public Hearing was closed at 9:26 P.M.
- ♦ Deliberation:
 - The Chairman requested the commissioners indicate their preferred process going forward.
 - Victor Riscassi indicated that the commissioners need to review each individual regulation change to determine appropriate changes.
 - Charles Bardes indicated that a basic review of each change should be conducted and reviewed for its merits to change.
 - William Roch indicated he was not prepared to approve or deny the proposal. Concerned with the process that small business owners feel intimidated by.

- Francis Kaplan indicated that future discussion needs to take place.
- Chester Morgan stated that the Town Council tasked the commission with a Zoning regulation rewrite. RFP was suggested to assist the commission after the completion of the POCD update. Indicated that the commission could lose the ability to apply appropriate §17.3 Special Permit criteria to applications.
- Charles Bardes, seconded by Chester Morgan moved a Motion to Deny without prejudice the presented proposal to revised the specific sections of the regulations with the stipulation:
 - Information provided in the supplied document to be utilized in the future update.
 - Victor Riscassi – No
 - Charles Bardes – Yes
 - William Roch – No
 - Francis Kaplan – No
 - Chester Morgan – Yes
- Motion failed 2-3
- Victor Riscassi, seconded by William Roch moved a motion to Table the application for future discussion.
- Victor Riscassi amended his motion to postpone the application for future discussion. Amendment was accepted by seconder.
 - Victor Riscassi – Yes
 - Charles Bardes – Yes
 - William Roch – Yes
 - Francis Kaplan – Yes
 - Chester Morgan – No
- Motion passed 4-1
- ♦ Recess at 9:40 P.M.
- ♦ Meeting reconvened at 9:45 P.M.
- ♦ Time frame for action on application is 65 days from closure of the Public Hearing.
- ♦ Information should be sent to absent members to review audio of the meeting.

4. Old Business

4.1 Plan of Conservation and Development

- ♦ Leonard Tundermann, Town Planner stated that he distributed the adopted POCD effective January 30, 2012.
 - Implementation plan to be discussed at a later meeting.

5. New Business.

5.1 Receipt of Applications:

- 5.1.1 Application [PZ-2011-19] of Wayne Schneider for a Zone Change from Planned Commercial Zone (PC) to Commercial Zone (C) for property at 400 Talcottville Road. (Assessor's ID: Map #09, Block #015H, Lot/Parcel #00026).
 - ♦ Charles Bardes, seconded by William Roch moved a motion to receive and schedule a Public Hearing on February 2, 2012. Motion carried unanimously.
- 5.1.2 Application [PZ-2012-01] of Wayne Schneider for a Special Permit for removal of 26,800 cubic yards of soil from the property at #400 Talcottville Road (Assessor's ID: Map #09, Block #015H, Lot/Parcel #00026).

- ♦ **Charles Bardes, seconded by William Roch moved a motion to receive and schedule a Public Hearing on February 2, 2012. Motion carried unanimously.**

5.1.3 Application [PZ-2012-02] of Thomas Scranton for a Site Plan Modification for Renovations and Building addition at #777 Talcottville Road (Assessor's ID: Map #7, Block #2, Lot/Parcel #78)

- ♦ **William Roch, seconded by Victor Riscassi moved a Motion to receive and schedule a Public Hearing on February 16, 2012. Motion carried unanimously.**

6 Other Business

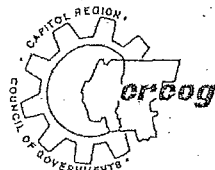
- 6.1 Additional business to be considered should be introduced under PZC meeting agenda item "#2.1 Amendment / Adoption of Agenda" at the beginning of the meeting.

7 Adjournment.

- ♦ **William Roch, seconded by Francis Kaplan moved a motion to Adjourn. Motion carried unanimously.**
- ♦ **Meeting Adjourned at 9:51 P.M.**

**James Krupinski
Recording Secretary**

Attachment A



Capitol Region Council of Governments

241 Main Street • Hartford • Connecticut • 06106

Telephone (860) 522-2217 • Fax (860) 724-1274

www.crocog.org

Mary Glassman, Chairman
Lyle D. Wray, Executive Director

MEMBERS

January 18, 2012

Andover

Avon

Bloomfield

Bolton

Canton

East Granby

East Hartford

East Windsor

Ellington

Enfield

Farmington

Glastonbury

Granby

Hartford

Hebron

Manchester

Marlborough

Newington

Rocky Hill

Simsbury

Somers

South Windsor

Stafford

Suffield

Tolland

Vernon

West Hartford

Wethersfield

Windsor

Windsor Locks

TO: TOWN OF VERNON PLANNING AND ZONING COMMISSION

REPORT ON ZONING REFERRAL Z-2011-97: Proposed amendments to the Zoning Regulations regarding property redevelopment and the regulatory review process.

COMMISSIONERS: Receipt is acknowledged of the above-mentioned referral. Notice of this proposal was transmitted to the Planning Division of the Capitol Region Council of Governments under the provisions of Section 8-3b of the Connecticut General Statutes, as amended.

COMMENT: The staff of the Regional Planning Commission of the Capitol Region Council of Governments has reviewed this referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns. The proposed changes will reclassify most special permit and special exception uses in nonresidential zones to permitted uses, however, threshold provisions requiring special permit approval will still apply. For sites located on a municipal border, we recommend that the town take into consideration the uses across municipal boundaries and that any setback requirements, screening or restrictions on intensity of uses, particularly for sites bordering residential uses in neighboring towns, be applied so as to mitigate impacts across municipal borders.

Questions concerning this referral should be directed to Lynne Pike DiSanto.

In accordance with our procedures this letter will constitute final CROC action on this referral. The public hearing date has been scheduled for 1/19/2012.

DISTRIBUTION: Planner: Tolland, Ellington, South Windsor, Manchester, Bolton, Coventry, Windham COG

Respectfully submitted,
Sandra Bobowski, Chairman
Regional Planning Commission

Karl Robert Profe, Vice Chairman
Regional Planning Commission

Lynne Pike DiSanto, AICP
Senior Planner and Policy Analyst

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TOWN PLANNER'S OFFICE

Attachment B

Mr. Len Tunderman

14 Park Place, Town of Vernon,
Rockville, CT 06066


Mr. Tunderman,

RE: PZ-2011-17 New Zoning Regulations drafted by law firm of Blackwell, Davis & Spadaccini

Due to a previous commitment, I am unable to attend the January 19, 2012, PZC meeting. I want to express my disapproval of these new zoning regulations drafted by the law firm hired by former Mayor McCoy. The Town of Vernon hired Planimetrics to work with the members of PZC and the public. Citizen input was a key component. Evidently the Mayor was not satisfied with this investment of time, effort, energy, and tax-payer money so he hired an outside firm to write new ones. Approving these "new" zoning regulations would do a disservice to the members of our PZC, who represent a citizen component of the process and the public. Approving these "new" zoning regulations would "silence" the voice of the people by not requiring public hearings and special permits (as determined by commission members). It limits the participation and role of the Planning & Zoning Commission which is a vital component in the process of an application.

I am opposed to the approval of "new" zoning regulations—PZ 2011-17. Thank you.

Deb Wilson


6 Liberty St.

Rockville, CT 06066

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JAN 18 2012

TOWN PLANNER'S OFFICE

Attachment C

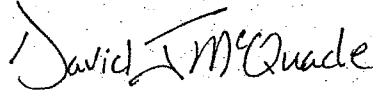
January 18, 2012

Leonard Tundermann
Town Planner
Town of Vernon
55 West Main Street, 2nd Floor
Vernon, CT 06066

Dear Mr. Tundermann:

Attached you will find a letter I would like to have made part of the public hearing on PZ-2011-17 "Application of the Town of Vernon to Change Various Sections of Vernon Zoning Regulations." Please provide a copy to all the members of the Planning and Zoning Commission at the January 19, 2012 meeting. Thank you in advance for your assistance on this matter.

Sincerely,



David J. McQuade
20-13 Whitney Ferguson Road
Vernon, CT 06066

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JAN 18 2012

TOWN PLANNER'S OFFICE

January 19, 2012

Chester W. Morgan, Chairman
Planning and Zoning Commission
Town of Vernon
55 West Main Street, 2nd Floor
Vernon, CT 06066

Dear Chairman Morgan:

I am writing to express my concern and opposition to PZ-2011-17 "Application of the Town of Vernon to Change Various Sections of Vernon Zoning Regulations."

As you are aware, the elements of application before the Planning and Zoning Commission originated at the request of former Vernon Mayor Jason L. McCoy through an engagement of the Manchester law firm Blackwell, Davis and Spadaccini, LLC. These proposed amendments to Vernon's Planning and Zoning regulations were developed and written without the input of the town's planner and without the initial opportunity for public scrutiny and comment.

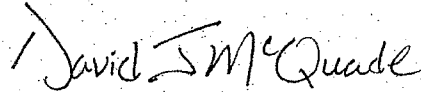
The proposed amendments contained in PZ-2011-17 are troubling on a number of levels. First, the proposals seek to limit the administrative authority of Vernon's Planning and Zoning Commission. By statute, planning and zoning commissions are authorized to act on special permits which subject applicants to conditions and standards necessary to protect, public health, safety, convenience and property values (Sec. 8-2 Conn. Gen. Stat.). Special permits provide Vernon's Planning and Zoning Commission with the authority to allow certain uses that are generally compatible with a location but subject those uses to standards such as topography, traffic issues, neighboring uses, etc. The numerous exemptions to special permit requirements contained in the proposed amendments before you today would dramatically diminish the discretion of Vernon's Planning and Zoning Commission on a host of issues vital to the well-being of this community.

Second, the proposed amendments in PZ-2011-17 create permitted activities that fail to protect the public health and safety of residents as required by law. Allowing day care centers (4.10.2.16)(4.9.2.10) and commercial education or recreation facilities (4.10.2.15) in industrial zones without conditions that could be imposed by special permit is clearly not in the interest of the children of this town. Further, siting full service restaurants with alcoholic beverage permits in areas zoned for industrial purposes (4.10.2.16), as authorized by these amendments, is especially not in the interest of public safety. Again, such facilities could be sited without the imposition of special permit conditions. Finally, the proposed amendments would authorize as a permitted use the siting of medical or

research laboratories in commercial (4.9.2.9)(4.9.4.10) and industrial zones (4.10.2.16) without the protection of special permit requirements. Such lack of administrative discretion is antithetical to the public health and safety role of the commission.

In conclusion, the Vernon Planning and Zoning Commission is one of the most important agencies in this community. It carries out essential police power to protect the citizens of Vernon from unrestricted and potentially dangerous development. You and your colleagues have done an admirable job at this task in the past and I urge you not to limit your authority in the future. Don't tie your hands. Please reject these amendments to your regulations.

Sincerely,

A handwritten signature in dark ink, reading "David J. McQuade". The signature is fluid and cursive, with the first name "David" and last name "McQuade" clearly legible.

David J. McQuade
20-13 Whitney Ferguson Road
Vernon, CT 06066

Attachment D

Robert B. Hurd, AIA
7 Rheel Street
Rockville, CT 06066

January 19, 2012

Chester W. Morgan, Chairman, and
Members, Vernon Planning and Zoning Commission
14 Park Place
Vernon, CT 06066

RE: PZC-2011-17 - Proposed Amendments to the Zoning Regulations

Dear Chet and PZC Members:

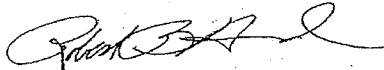
I urge you to table the above referenced application. As a citizen, taxpayer and some time applicant before the PZC, I appreciate the desire to streamline the application process. In fact, the proposed amendments contain some valuable suggestions toward this end. However, the proposed amendments obviate public participation in the process by elimination of the Special Permit review of uses which by their nature may conflict with established uses within a given zoning district.

More particularly, I oppose the blanket changes which the amendment recommends for the following districts: Historic District - Residential Commercial Zone, Historic District - Industrial Zone and Historic District - Downtown Business and Residential Zone. The City of Rockville Historic District which is represented by these zoning districts has a high degree of mixed uses. As such, the coexistence of varied uses should be encouraged; however, such coexistence is often fragile and changes to the patterns of use must be subject to input from the existing owners and occupants of the district. The Special Permit review process is the best way to insure this input, and it insures that new uses will be compatible with existing uses. It should not be eliminated!

In short, I believe that you should allow yourselves time to make deliberate, substantive changes to the zoning regulations to protect the interests of existing residential and business property owners while creating a more business-friendly development process. If you can't simply table this proposal, please defeat it, dissect it and resurrect those pieces which make sense within the context of your recently completed Plan of Conservation and Development.

As always, thank you for the opportunity to comment.

Sincerely yours,



Robert B. Hurd, AIA
Architect

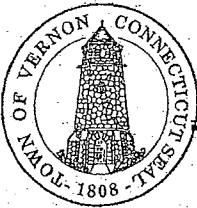
Cc: L. Tundermann - Vernon Town Planner
file

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JAN 19 2012

TOWN PLANNER'S OFFICE

Attachment E



OFFICE OF THE
TOWN PLANNER

TOWN OF VERNON

55 WEST MAIN STREET, VERNON, CT 06066

Tel: (860) 870-3667

Fax: (860) 870-3683

E-mail: planning@vernon-ct.gov

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Leonard K. Tundermann, AICP, Town Planner *LKT*

SUBJECT: PZ-2011-17: Proposed Amendments to the Zoning Regulations

DATE: January 12, 2012

Background

The proposed changes to the zoning regulations were drafted by the law firm of Blackwell, Davis & Spadaccini at the direction of former Mayor McCoy. The proposed changes target zones that allow commercial and industrial uses, several of which also allow residential uses, such as the Historic District – Residential Commercial Zone. In essence the proposed changes remove many uses from sections that require approval of a special permit and place them in companion sections that permit uses as of right.

The effect of such changes is twofold: (1) it would no longer subject the affected uses to the special permit criteria of section 17.3, and (2) the absence of a special permit requirement for the affected uses would eliminate the statutory requirement that a public hearing be held on the application. Of course, an application for site plan review would typically be required, and the Commission has the prerogative of scheduling a public hearing on any site plan. But the Commission should keep in mind that site plan review is a “ministerial” function. If a plan satisfies all zoning regulations the Commission has no discretion but to approve it.

Following are comments with respect to the proposed changes with respect to each zone that is potentially affected.

Commercial Zone (section 4.9)

1. New section 4.9.2.2 (moved from 4.9.4.10) establishing full service restaurants as a permitted use instead of as a special permit use: I find this change to be appropriate. In a commercial zone there is no compelling reason to require a special permit to establish what amounts to a common commercial venture.

PZ-2011-17: Proposed Amendments to the Zoning Regulations
January 12, 2012

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2. New section 4.9.2.12 establishing single and two-family dwellings as a permitted use: I find this change questionable. The minimum lot area in the commercial zone is ½ acre, so single and two-family dwellings would have to occupy a lot of that size. I suspect many existing single and two-family dwellings in the commercial zone would be rendered nonconforming. I think it would make more sense to permit multifamily dwellings in the commercial zone according to appropriate parameters, but that has not been proposed.
3. Deletion of section 4.9.3.2, special exception for new and used car dealerships: this section is actually in conflict with present section 4.9.2.10, which permits sale and rental of vehicles as of right. It would be appropriate to delete one of these sections depending on whether the Commission believes car or truck lots should be subject to a higher level of review.
4. Deletion of specified personal convenience services as special exception uses under present section 4.9.3.4: removal of the specific services would render the section a catch-all for all such uses not listed as permitted under present section 4.9.2.7. This would not be a problem. Eventually all personal convenience services should be listed as permitted as of right and removed as special exception uses.
5. Deletion of full service restaurant or clubs as a special permit use under present section 4.9.4.10: this is addressed under item #1, above.
6. Deletion of medical or research laboratory as a special permit use under present section 4.9.4.12: I support this change. Presently medical or research laboratories are listed as both a use as of right and as a special permit use in the commercial zone, which is obviously contradictory. Listing them as uses of right is appropriate.
7. Deletion of non full-service restaurant as a special permit use under present section 4.9.4.21: although the definition of non full-service restaurant is somewhat ambiguous, it would seem to apply to so-called fast food restaurants. This use is not proposed to be added to the section of permitted uses, so its deletion as a special permit use would eliminate this type of restaurant altogether, which in turn would render existing fast food restaurants in the commercial zone nonconforming. This would not be a practical change in my judgment.

Industrial Zone (section 4.10)

1. New section 4.10.2.15 (moved from 4.10.4.1) establishing commercial education or recreational facility as a permitted use instead of as a special permit use: I believe this change requires some debate. The other uses listed as permitted are minimally consumer-oriented. Introducing uses that rely on consumer patronage is inconsistent and could lead to conflicts in the traffic mix of personal vehicles and trucking.
2. New section 10.2.16 establishing as permitted uses any uses permitted in the commercial zone: I am not in favor of this change. It represents the upward integration and

PZ-2011-17: Proposed Amendments to the Zoning Regulations
January 12, 2012

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agglomeration in a more restrictive zone of uses permitted in a less restrictive zone. This has the potential of leading to conflicts, particularly between retail trade and traffic and more self-contained industrial uses. Allowing single and two-family dwellings in the commercial zone, proposed under item #2 for the Commercial Zone, above, has the potential of introducing a steady stream of conflicts and complaints between residents in an industrial zone and industrial operations.

3. Deletion of restaurant or other establishment serving food within a building as a special permit use under present section 4.10.4.9: restaurants are not typically found in industrial zones, but they do exist. This use should not be deleted unless it is added as a permitted use. It would be appropriate to remove the reference to live entertainment and add a reference to cafeteria.
4. Deletion of professional or business offices, including banks or other financial institutions as a special permit use under present section 4.10.4.10: presumably this change is predicated on permitting those uses also permitted in the commercial zone, where similar language exist. Again, the Commission needs to be mindful and careful about upward agglomeration of uses from less restrictive zones. The definition of professional offices includes medical offices, which generate patient traffic; banks generate similar customer traffic. As asserted above, mixing consumer traffic with trucking and industrial operations could lead to incompatible uses within an industrial zone.
5. Deletion of electronic or mechanical games as a special permit use under present section 4.10.4.12: I support this change inasmuch as this use is permitted by special permit in the commercial zone. I do not believe it is an appropriate use in the industrial zone.

Historic District – Residential Commercial Zone (section 4.17)

1. All uses presently requiring a special permit under sections 4.17.3.1 through 4.17.3.23 and sections 4.17.3.26 through 4.17.3.28 would be listed as uses of right under section 4.17.2. Medical or research laboratory would be added as a use permitted by right.

The Commission needs to review the list of uses individually rather than as a group. The minimum lot area in the zone is 0.45 acre. Because the zone accommodates a mix of residential and commercial uses, an extra measure of scrutiny is appropriate to make sure one use does not impinge on a neighboring one. The special permit criteria provide the Commission that extra degree of review and discretion. To allow the entire list of uses by right would invite conflicts, in my judgment. For example, outside displays exceeding ten percent of gross floor area, proposed to be a use of right, was a matter of neighborhood contention for a retail use on Windsor Avenue early in 2011.

There are also several inconsistencies within the proposed changes:

PZ-2011-17: Proposed Amendments to the Zoning Regulations
January 12, 2012

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- a. Sellers and servers of alcoholic beverages would be listed as a use permitted as of right under proposed section 4.17.2.15, yet the continued reference to section 17.1 would make those uses subject to a special permit nevertheless;
- b. Drive-up service windows are proposed as a use of right under proposed section 4.17.2.19, yet the language still requires a special permit; section 3.27 also requires a special permit for drive-up service windows, and that section was not proposed for change;
- c. Multiple single-family dwellings are proposed as a use of right under proposed section 4.17.2.24, yet the language still makes the use subject to the special permit requirements of section 17.3.3.

Historic District – Industrial (section 4.19)

1. All uses presently requiring a special permit under sections 4.19.3.1 through 4.19.3.4 would be listed as uses of right under section 4.19.2. In addition, all uses permitted in the Historic District – Residential Commercial (HD-RC) zone would be permitted as of right, and the special permit required for more than forty (40) off-street parking spaces would be deleted (this is the only zone for which that change has been proposed).

The same argument raised for the HD-RC zone applies to the HD – I zone. The Commission needs to consider the potential impact of disparate uses adjoining one another and whether sacrificing the scrutiny and review criteria afforded by special permit requirements is appropriate. In general I would not favor allowing residential uses within an industrial zone.

Special Development Zone – Economic Development (section 4.20)

1. A new section would be added to permit as of right all uses permitted in the HD-RC zone. The section declaring that there are no special exceptions in the SED zone would be deleted, which accomplishes nothing because no special exception uses are listed. Professional office buildings and office parks, banks, restaurants, and government buildings would be deleted, presumably because these uses would be incorporated by reference to the HD-RC zone. If that reference were to be disapproved, the deleted uses should remain in the SED zone. Other uses proposed for deletion are (a) retail sale of products assembled or packaged on the premises and comprising at least 75% of the floor area, and (b) plumbing, heating, electrical, industrial, and general contracting establishments. I do not know the reason for those changes; I can only speculate that the 75% criterion may be seen as too restrictive and that the trade and contracting uses may be viewed as more appropriate for an industrial zone.

I do not have a clear understanding why the SED zone was established. In its present form it resembles the use characteristics and minimum lot area requirements of an industrial zone. I do not object to eliminating or reducing the 75% floor area requirement

PZ-2011-17: Proposed Amendments to the Zoning Regulations
January 12, 2012

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for assembly/ packaging in order to allow retail use, but I question allowing such uses as churches, nursing homes, and multifamily dwellings as of right.

Planned Commercial Zone (section 4.21)

1. A new section would be added to permit as of right all uses permitted in the HD-RC zone. Specific special permit uses of full service restaurants, research and experimental laboratories, banks or other financial institutions without drive-up windows, government facility, retail, and recreational and educational facilities would be deleted. The Planned Commercial zone requires a three acre minimum lot area and was probably put into place to encourage large scale commercial development. Again, the Commission needs to examine whether the residential and institutional uses that would be permitted as of right in the HD-RC zone should also be permitted as of right in the Planned Commercial zone.

Historic District – Downtown Business & Residential zone (section 4.23)

1. A new section would be added to permit as of right all uses permitted in the HD-RC zone. Several specific special permit uses would be deleted and no longer permitted within the zone: (a) hotels and motels, and (b) conversion of residential to non-residential use, and conversion of non-residential to residential use. Motels would not be appropriate to the HD-DBR zone, but a hotel would be. More importantly, I believe conversions have been and should remain an integral feature of Rockville and reflect a preservation opportunity that should not be dismissed. A number of large, historic homes in Rockville have been converted to uses such as funeral homes, and former mills have been converted to residential use. Section 3.26 of the Zoning Regulations specifically recognizes the value and legitimacy of adaptive re-use.

As I have suggested in numerous instances above, incorporating all uses that would be permitted as of right in the HD-RC zone should be examined carefully for applicability to the HD-DBR zone.

Aquifer Protection (section 20)

1. The change proposed to section 20.3.1 would automatically substitute a Level A aquifer protection map prepared by the CT Water Company and approved by the DEEP for the aquifer protection mapping presently used by the Town and Commission under the Zoning Regulations. Level A mapping has not been undertaken for Vernon and may not be for some time. When it is, Vernon will have to put into place appropriate aquifer protection regulations based on the DEEP model regulations and subject to DEEP approval. With that occurs, Vernon's zoning regulations for aquifer protection will likely be abandoned. Under this scenario I think the proposed change to section 20.3.1 only "muddies the waters" because aquifer protection based on Level A mapping will introduce an entirely different regulatory regimen.

Attachment F

BRANSE, WILLIS & KNAPP, LLC

148 EASTERN BOULEVARD
GLASTONBURY, CONNECTICUT 06033
TELEPHONE: (860) 659-3735
FAX: (860) 659-9368

MARK K. BRANSE
MATTHEW J. WILLIS *
ERIC KNAPP
BRENDAN SCHAIN
*ADMITTED IN MASSACHUSETTS

OF COUNSEL:
RONALD F. OCHSNER

E-Mails:
mbranse@bransewillis.com
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eknapp@bransewillis.com
bschain@bransewillis.com

rochsner@bransewillis.com

January 19, 2012

Chester W. Morgan, Chairman, and Members
Vernon Planning & Zoning Commission
Town of Vernon
14 Park Place
Vernon, CT 06066

RE: Application # PZ-2011-17, Mayor of Vernon

Dear Chairman Morgan and Commission Members:

This firm was requested by the Vernon Citizens for Responsible Development ("VCRD") to provide an initial review of the above referenced requested zoning text change, and, on its behalf, is submitting this letter in regards to the above-captioned Application filed by the Mayor of Vernon. The Application primarily consists of changes to the following sections 4.9, 4.10, 4.17, 4.19, 4.20, 4.21, 4.23 and 20 of the Vernon Zoning Regulations (the "Regulations").

After a review of the proposed changes, most of the changes involve moving uses from being approved by Special Permit to Site Plan approval. The impact of this is two-fold: 1. Many applications will now avoid a public hearing because there is no requirement to hold a public hearing for a site plan approval as there is for a special permit, and, therefore public input will be diminished greatly; 2. The Planning and Zoning Commission will lose discretion and will be unable to apply the standards set forth in Section 17.3 (i.e. public, health and safety, compatibility of uses and future sound development) which allow the Commission to decide what uses are appropriately placed in a particular zone. An additional hazard is that with Site Plan approval only, if the Planning and Zoning Commission does not act within the statutory time frames, the risk for automatic approval increases under Conn. Gen. Statute Section 8-3(g).

Chester W. Morgan, Chairman, and Members
Vernon Planning & Zoning Commission
Town of Vernon
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January 19, 2012

The Application claims that these changes are being proposed to "streamline the regulatory review process". "Streamline", in the context of this proposed text change, means less public input and less discretion to be exercised by the Planning and Zoning Commission. These proposed changes are a drastic shift in the Vernon Zoning Regulations. Why would the Town of Vernon be afraid of its own citizens and its own Planning and Zoning Commission?

Some new textual problems are created by the language used in this zoning text change: Section 4.10.2.16 is being amended to read "Any uses permitted in Commercial Section 4.9". Does this mean all the uses in Section 4.9.2 or does it mean all uses under Section 4.9 (including those uses under 4.9.3, 4.9.4)? What type of approval will these uses require if the uses under 4.9.3 and 4.9.4 are supposed to be included? This same problem crops up under Section 4.19.2.10 under Historic District - Industrial and 4.20.1.6 Special Development Zone - Economic Development and 4.21.3.2 under Planned Commercial Zone where it just says permitted uses and cites to a whole zone rather than a particular section.

Section 4.19.2.6 is being amended to read as follows: "Restaurant serving food for consumption inside the building." Does this mean a Full Service Restaurant or Non Full Service Restaurant? These are the only two types of Restaurants defined in your Regulations. The regulation is unclear and the point of this regulation cannot be determined as drafted.

For reasons that are not clear, many uses will now be permitted in just about all zones by Site Plan approval. As an example, "Full service restaurants or clubs with or without alcoholic beverage permits" seem to be getting special attention under these proposed regulations. It appears that under these proposed new changes, this use will now be permitted use under a Site Plan in the Commercial Zone, Industrial Zone, Historic District - Residential Commercial, Historic District-Industrial, Special Development Zone - Economic Development, Planned Commercial Zone and Historic District - Downtown Business & Residential Zone. It is surprising that there is such a need for Full Service restaurants or clubs in so many zones. The word "club" does not seem to be defined in your Regulations. Also surprising is that restaurants and clubs that serve alcohol could be approved in all these zones without a public hearing nor the need for a special permit.

Chester W. Morgan, Chairman, and Members
Vernon Planning & Zoning Commission
Town of Vernon
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Another issue is that residential uses will be permitted by Site Plan in new zones where residential uses are not necessarily appropriate. For example, the Commercial Zone, the Industrial Zone, the Historic District - Industrial Zone, the Special Development Zone - Economic Development Zone, and the Planned Commercial Zone will any permit single or two family zoning use by Site Plan. It is unclear why residential uses would be included in so many new zones based upon the number of Vernon's existing residential units. Due to the incorporation of many uses in one zone to another, the distinction between many zones is becoming blurred and perhaps extinguished.

Please note that this letter is not an attempt at an exhaustive review of the proposed Application.

If the Commission chooses to accept the Mayor's zoning text changes, then the Commission is diminishing their ability to appropriately manage responsible development in Vernon. The wholesale modification of zoning regulations is something that should be undertaken by the community as a whole and should be spearheaded by the Planning and Zoning Commission. The proposed Application should be denied and the Planning and Zoning Commission should use an open process for any wholesale change to the Zoning Regulations prior to any new zoning text application being filed.

Sincerely,



Matthew J. Willis, Esq.

cc: Vernon Citizens for Responsible Development

Attachment G



TOWN OF VERNON

Conservation Commission
14 PARK PLACE
VERNON, CT 06066

TO: Vernon Planning and Zoning Commission
FROM: Vernon Conservation Commission
SUBJECT: PZ-2011-17: Proposed Amendments to the Zoning Regulations
DATE: January 19, 2012

The Vernon Conservation Commission wishes to comment on Application PZ-2011-17: Proposed Amendments to the Zoning Regulations. The proposed changes remove many uses from sections of the existing zoning regulations that require approval of a special permit and place them instead in sections that permit uses as-of-right. The effect of such changes would be to eliminate the statutory requirement that a public hearing be held on subject applications.

Per Connecticut State Statute 7-131a, it is the Conservation Commission's duty to make recommendations on proposed land use changes to Planning and Zoning Commissions and other municipal agencies. The mechanism for that review in Vernon is through Section 14.1.6 of the Zoning Regulations regarding Site Plans. Section 14.1.6 provides that the PZC, in approving a site plan, may stipulate such restrictions as appear to be reasonable to protect the environment in the area, among other things. The Conservation Commission understands the term "environment" in this context to mean natural resources. It is thus the role of the Conservation Commission to recommend to the PZC such restrictions or other best management practices as may be appropriate to protect natural resources.

The Conservation Commission understands that site plan reviews would typically be required for proposed activities that would be eligible for as-of-right permits under the proposed amendments. However, a site plan that satisfies zoning regulations may still engender questions about environmental impacts. Without a public hearing, our ability to review and comment on such a plan would not be guaranteed. We believe that we can best fulfill our statutory duty to assist and make recommendations to the Planning and Zoning Commission regarding protection of natural resources if public hearings are required for proposed development activities, as presently exists through the Special Permit process.

Thank you.

cc: Leonard Tundermann, Town Planner

Attachment H

TOWN CHARTER Chapter XI

Section 13. - Planning department.

The planning department shall consist of the town planner and such other employees as authorized by the town council from time to time.

(a)

Functions: Assist and advise the mayor, the town administrator and all other town agencies and officers on the efficient use of land areas within the town, on the disposition and use of town-owned land, and on the location and character of proposed town improvements, installations and construction projects.

(b)

Town planner; powers and duties. The town planner shall be responsible for the operation of the planning department and shall:

Serve as technical advisor and administrative officer to the planning and zoning commission and shall assist such commission in the discharge of its statutory duties;

Aid said planning and zoning commission in keeping up-to-date the various maps, regulations, ordinances, permits and approval forms and other items necessary to its efficient operation;

Cooperate in the development of town capital improvement programs and capital budget recommendations;

Undertake studies at the request of the mayor to evaluate long range departmental needs, programs and services and to prepare recommendations regarding town services, improvements, regulations and standards as will best serve the public interest and promote the sound development of the town.

Attachment I

Jason McCoy, Mayor
John D. Ward, Town Administrator
Town of Vernon
Memorial Building
14 Park Place
Vernon, CT 06066

RE: Engagement Letter for Legal Services

Gentlemen:

We are pleased that the Town of Vernon wishes to engage the law firm of Blackwell, Davis & Spadaccini, LLC as its counsel. The Attorneys Rules of Professional Conduct require that we confirm our fee arrangement and the other essential terms of our engagement in writing with you. If you concur, this letter will serve as such a confirmation. We understand this engagement will remain effective until terminated by the unilateral action of either party on thirty - (30) days' prior notice.

Scope of Engagement. We understand that you have engaged us to:

- Review and re-draft the Town of Vernon Zoning Regulations as amended through November 17, 2010, consistent with the Proposed Plan of Conservation and Development dated July 2011; and ~~the Town of Vernon Zoning Regulations as amended through November 17, 2010, consistent with the Proposed Plan of Conservation and Development dated July 2011; and~~
- Review and re-draft the Town of Vernon Zoning Regulations as amended through November 17, 2010, consistent with changes in the Connecticut General Statutes and previous internal amendments.

POCD - specifically w/ regard to farm housed zoning, Rockville section of Town

Should additional work be required we will inform you immediately of the factors involved in order that you can review and decide your course of action. Blackwell, Davis & Spadaccini, LLC would welcome the opportunity to provide additional services to you but we understand that we will not be responsible for any other aspect of any other matter without additional written instructions. We also understand that, presently, there is no other matter for which we have assumed responsibility to you.

Deadlines. Based upon our conversations with you and other employees of the Town of Vernon, we will provide an initial review/draft of the Zoning Regulations to ~~you~~ *the Town Administrator* by the close of business on September 12, 2011. Of course reasonable delays may occur, but we expect to provide you with this initial review/draft by that date.

Fee arrangements. This firm shall bill at \$200.00 per hour for legal services plus reasonable expenses and costs incurred in the above-captioned matter. Our hourly rate includes

Town of Vernon
August 19, 2011
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normal copying in quantities fewer than ten (10) pages, secretarial work during normal working hours, regular postal charges, and local telephone calls. Aside from the issue of legal fees, we will require reimbursement or advance payment of any filing fees (for example, fees with the Secretary of the State) or for any charges for additional copying, long distance telephone calls, telecopies, filing fees, marshal fees for service of process, express mail, messenger service, and similar charges, which will be billed separately at our actual cost. Any fees from litigation associated with this transaction are separate and apart from the fees shown above. ~~Initially, we will bill off of a retainer of \$2,500.00, which will be held in our clients' funds (escrow) account.~~ *JK*

Communications. I will have primary responsibility in this matter. If there is any aspect of this matter that I feel should be brought to your attention at any time or which requires a decision, I will call, write or e-mail you about it. If you ever have a question, feel free to contact me by e-mail or at any of the numbers previously provided. My e-mail address is jclark@bds-law.com. If I am not available when you call, please leave word and I will get back to you as soon as possible.

We understand that this issue is a matter of public record and we may receive inquiries from the press or other organizations looking for comment with respect to this engagement. Of course, our confidential communications with the Town of Vernon are protected by the attorney-client privilege and client confidentiality, but with respect to public information by signing below you specifically authorize us to speak with the press.

If this represents your understanding with Blackwell, Davis & Spadacoini, LLC, please sign and date below and return the original of this letter to me. We appreciate the opportunity to represent you and look forward to continued work on your behalf.

Sincerely,

Justin R. Clark

ACCEPTED AND AGREED TO:

Authorized signature *Mayer Jacob Meloy*

Date: *8/4/2011*

Attachment J

~~XXXXXX~~

Town of Vernon

Title: Economic Development Coordinator Department: Executive Offices

Position Definition: Plans, organizes, and administers an economic development program to strengthen the tax base, improve employment, and stimulate business activity; and provides continuing technical assistance to officials, boards, commissions, developers and businesses. Provides consultation to assist in the retention and expansion of existing business interests; administers commercial or industrial development projects; and seeks out new community-compatible businesses.

Supervision Received: Receives general direction from the Mayor and Town Administrator and policy guidance from the Economic Development Commission. Plans work assignments and sets priorities according to established economic development policy. Works with independence; and prepares regular narrative and statistical reports for the Mayor, Town Administrator, Council Development sub-committee, and the Economic Development Commission upon request.

Examples of Essential Duties: Leads and participates in the short term and long range planning of economic development policy, recommending objectives and operating policies to the Mayor and Town Administrator. Leads in the coordination of community activities to attract new and community compatible business interests, and provides technical assistance to existing and potential community business interests. Recommends policies that encourage balanced economic development; and provides continuing technical assistance to town officials, private developers and others in guiding proposals through the regulatory processes. Performs economic studies to assist new businesses and existing businesses in considering development strategies to meet changing conditions. Seeks out inter-government and private grants to support economic growth and development of existing resources. Writes grant applications and may administer approved grants. Develops and maintains an inventory of community resources including: industrially zoned land; public infrastructure information; social, cultural, and educational advantages; and related demographic information to be used in business planning, and for promotional materials to retain existing businesses and to attract potential business and industry. Coordinates the active participation of community business interests in presenting the town to visitors. Maintains inventory of potential business relocation and develops prospective client list. Reports regularly on economic and development strategies and prospects to Economic Development Commission. Provides information and referral assistance to community business interests. Establishes and maintains working relationship with state, regional, and local development agencies.

Examples of Incidental Duties: Administers town real estate interests as assigned. Participates in review of proposed commercial developments plans. Coordinates economic development planning duties with Town Planner. Attends trade shows and related functions to promote the interests of the Town.

Knowledge, Skill and Abilities Required: Ability to acquire a working knowledge of community resources and opportunities. Ability to apply principles of development administration to solve practical problems. Ability to present oral or written reports including statistical analyses in a clear, concise, and attractive manner. Ability to deal effectively with elected officials, business interests, the public and staff members.

Minimum Qualifications Required: The skills and knowledge required would generally be acquired with a Bachelor's degree in Public or Business Administration, or Urban Regional Planning; and three years increasingly responsible experience in municipal economic development and planning or business development experience, with demonstrated marketing and public relations skills; or a Master's degree in Business Administration, Economics, or Community planning with two years of the above experience.

Physical Exertion/Environmental Conditions: Performs duties in an office environment. Intermittent exposure to a computer screen. Some field work requiring highway driving. Some stress in public contact.

License or Certificate: Ability to obtain and maintain a valid Connecticut Motor Vehicle operator's license.

Note: This description is illustrative of tasks and responsibilities. It is not meant to be all-inclusive of every task or responsibility.

Attachment K

SIDE LETTER
Re Economic Development Coordinator Position

The Town of Vernon ("Town") and Local 818 Professionals of Council 4, AFSCME, AFL-CIO ("Union") agree the following with regard to the position of Economic Development Coordinator ("Coordinator"):

1. An employee hired in the Coordinator's position will be compensated with a base salary at the position level E-4, with the salary range of \$63,105.41 to \$79,918.13, effective July 1, 2010; however, and will be subject to all provisions of the Agreement with the exception of the performance bonus provision in Art. XX § 20.6. In lieu of said performance bonus, an employee hired in the Coordinator's position will be eligible to receive performance bonus described below:
 - a. Up to three per cent (3%) of the revenue directly attributable to the efforts of the employee, since the employee started in the position, on an annual basis.
 - b. The revenue as described herein will mean the increase to the Grand List attributed to new real estate assessments and building permit revenue; both generated through new economic development activity within the Town of Vernon, Connecticut.
 - c. The bonus, if approved by the Mayor or the Mayor's designee, will be based on the revenue collected in the same year which the bonus is paid.
 - d. Performance pay is an individual payment that is not considered nor does it become part of the employee's salary.
2. It shall be the employee's responsibility to document all activity that is claimed to have generated additional revenue, and apply to the Mayor or the Mayor's designee for performance bonus. Upon submission of the bonus request, the bonus will be paid as per Section I of this Agreement. Upon approval or denial of the bonus by the Mayor or the Mayor's designee, the Union President and/or his designee will be notified within ten (10) working days.
3. The Union agrees not to grieve or file a related MPP regarding the implementation, effect or any other consequence of the changes set forth in this side agreement.
4. The Union acknowledges and understands that the terms of this side letter will not be claimed or construed as setting any type of precedent or practice for the future. The Union also agrees that the terms of this side letter will at no time be claimed in violation of the terms of the applicable collective bargaining agreement.

Dated at Vernon, Connecticut, this 13th day of April 2011.

For the Town

By: 

For the Union

By: 



OFFICE OF THE
MAYOR
Jason L. McCoy

TOWN OF VERNON

14 PARK PLACE, VERNON, CT 06066

Tel: (860) 870-3600

Fax: (860) 870-3580

jmc coy@vernon-ct.gov

May 18, 2011

Mr. Shaun W. Gately
41 Birch Hill Drive
South Windsor, CT 06074

Re: Appointment, Terms and Compensation as
the Economic Development Coordinator

Dear Mr. Gately:

This letter is to confirm your appointment and set out the terms and compensation of your appointment as the Economic Development Coordinator for the Town of Vernon. Your salary will be \$79,918.13 per year, pursuant to the Salary Range E-4 and Step 8, as specified in the Collective Bargaining Agreement ("CBA") between the Town and AFSCME Council 4 Local 818, Appendix E (effective July 1, 2010) and Art. XX § 20.4. The employment is at will subject to the Town of Vernon Personnel Rules and Regulations, the Vernon Town Charter, as well as the provisions of the CBA and any agreements with the Professional Employees Union ("Union"). Pursuant to the attached agreement with the Union, your position is exempt from the performance bonus provision in Art. XX § 20.6. In lieu of said performance bonus, you will be eligible to receive a performance bonus of up to three per cent (3%) of the revenue directly attributable to your efforts, since your starting date, on an annual basis, as described in the attached Side Letter, dated April 13, 2011.

This appointment is based on your qualifications, education and experience, as stated in your application and resume, as well as responses that were part of the oral interviews and written Economic Development Plan, which are incorporated by reference into the terms of this offer letter. Your duties include but will not be limited to those in the attached job description for the position. Specifically, the Town will be looking forward to your efforts designed to attract new businesses and assist with the growth and retention of existing businesses; through (a) encouraging business growth that diversifies and stabilizes the tax base; (b) stimulating the local economy; (c) providing the type of employment options that allow residents to work where they live; (d) partnering with other levels of government, industry and education to leverage opportunities; and (e) encouraging businesses, citizens and government to engage in "Together Results are Possible" philosophy. In particular, you will be expected to implement your proposed Economic Development Plan, which has been made part of your personnel file and is incorporated here by reference.

Employee Initials SGE

Appointment Letter – Gately

May 18, 2011, Page 2 of 3

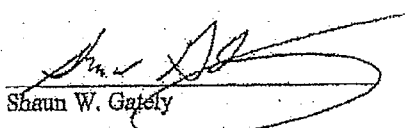
You will also be required to attend Town Council meetings and other meetings that occur outside of the normal business hours. You will be required to follow the Town of Vernon Personnel Rules and Regulations, which include the Energy Conservation Policy, a copy of which is attached for your information. I am sure that you will set a good example for other employees in our efforts to conserve energy and reduce costs for the Town and our taxpayers.

As a full-time, Professional Employees Union employee, you will receive an excellent benefit package from the Town of Vernon. This includes a Defined Contribution plan which vests Town contributions on a graduated schedule, with full vesting after ten years of service. This plan is managed through a 457(b) plan for employee contributions, with a 2% Town match for any employee contributions between 0% < 7.5% of base compensation; or a total of 4% Town match once employee contributions exceed 7.5% of base compensation. You will also be entitled to Medical, Dental, and Prescription coverage for you and your family. You will have an option to enroll in either HMO with 10% employee premium co-share or PPO plan with 15% employee premium co-share. Should you not elect to enroll in the Town's group health care plan, you will be entitled to a waiver payment, as specified in the CBA Art. XVIII § 18.1. The Town will also cover your Life (\$50,000), Accidental Death and Disability (\$100,000) at no cost to you. In addition, the Town will cover you with the Long Term Disability insurance at no cost to you. Your fringe benefit package will include vacation, sick and personal time, as defined in the CBA. This benefit package may change based upon any changes made to this or successor CBA and/or Personnel Rules and Regulations.

Pursuant to the Vernon Town Charter c. XI § 4, my appointment of you was approved by an affirmative vote of the Vernon Town Council on May 17, 2011. This appointment is contingent upon a successful background check and probationary period of six (6) months, pursuant to Art. IV § 4.0 of the CBA. Please report to the Town Administration on May 23, 2011. On your first day at work, please call Alysia McDowell in Human Resources, at (860) 870-3656, to make an appointment for new employee processing. You will need to bring your driver's license and your Social Security card, or your birth certificate, and the Social Security numbers of your beneficiaries for your Defined Contribution plan and life insurance.

I appreciate your commitment to the Town of Vernon. Please sign and return this appointment letter to the Town prior to your start of employment effective May 23, 2011.

I hereby accept the terms and conditions of this appointment as set out herein and by reference.


Shaun W. Gately5-19-11
DateEmployee Initials SA

Appointment Letter – Gately

May 18, 2011, Page 3 of 3

Dated at Vernon, Connecticut this 18th day of May 2011.

By:

Mayor Jason L. McCoy
Town of Vernon

C: John D. Ward, Town Administrator
Peter Graczykowski, Assistant Town Administrator
Frank Zitkus, Controller
Penny Calcasola, Payroll Coordinator
Alysia McDowell, Human Resources Assistant
Personnel file

Encl. Job Description
Energy Conservation Policy
Professional Employees Collective Bargaining Agreement
Professionals Side Letter re EDC dated April 13, 2011
Vernon Town Charter
Personnel Rules and Regulations

Employee Initials EW

Attachment L

PZC Regular Meeting Minutes 10-20-2011 1/3

TOWN OF VERNON
Planning & Zoning Commission (PZC)
Minutes – Regular Meeting
Thursday, October 20, 2011, 7:00 PM
Council Chambers, Third Floor
Memorial Building
14 Park Place
Rockville/Vernon, CT

RECEIVED
VERNON TOWN CLERK
11 OCT 27 PM 4:17

1. Call to Order & Roll Call

- ♦ Meeting was called to order at 7:03 P.M.
- ♦ Regular Members Present: Chester Morgan, Francis Kaplan, Charles Bardes, Stanley Cohen, Victor Riscassi and Daniel Sullivan.
- ♦ Alternate Members Present: William Roch. William Roch to sit for Vacant.
- ♦ Staff Present: Leonard Tundermann, Town Planer, Shaun Gatley, ED Coordinator
- ♦ Mayor Jason L. McCoy was present.
- ♦ Town Counsel: Harold Cummings, Town Attorney
- ♦ Recording Secretary: James Krupinski

2. Administrative Actions/ Requests

2.1 Amendment / Adoption of Agenda - Additional business to be considered under agenda item #5 "Other Business"

- ♦ Add Item # 5.3 – Discussion regarding Cease and Desist Order date August 5, 2011 regarding keeping of Chickens.
- ♦ Charles Bardes, seconded by Stanley Cohen moved a Motion to Add Item 5.3 to the Agenda. Motion carried unanimously.
- ♦ William Roch, seconded by Victor Riscassi moved a Motion to Adopt the Agenda as Amended through October 20, 2011 and above. Motion carried unanimously.

2.2 Dialog with Mayor Jason McCoy

- ♦ Presented the Commission with a copy of proposed changes to the current Zoning Regulations.
 - The Town has had difficulty in filling vacant properties due to the need to review each site prior to reuse for zoning compliance.
 - Reviewed specific zones to outline relevant changes.
- ♦ Shaun Gatley, Economic Development Coordinator indicated that permitted uses were expanded in proposed revisions to assist in redevelopment efforts.

2.3 Communications received NOT related to Agenda items

- ♦ Approval Letter for PZ-2011-10 of Dennis McConville for a Site Plan of Development and Special Permit to construct a parking lot for ECHN on each parcel at #8, #12, & #11 Ward Street and #35 Village Street.

2.4 Acceptance of Minutes

- ♦ None

3. Old Business

3.1 Plan of Conservation and Development

Inappropriate due to financial gains that are possible for him.

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- ♦ **Special Meeting & Public Hearing was held on October 13, 2011 to receive comments from the public relative to the public review period for the Draft Plan.**
 - Comments are being integrated into a new document for presentation at the November 3, 2011 Regular meeting.
 - A public meeting will be held for the commission to discuss relevant issues and possible inclusions to the Draft Plan.

4. New Business.

4.1 Correspondence regarding Application PZ-2011-06 of Ticket Network Inc. for Approval of a Site Plan of Development to install a driveway and a small parking lot at #60 South Frontage Road

- a) PZC approval letter July 26, 2011;
- b) Letter from Charles Drda of CT DOT, 9/16/2011, to CT DEEP requesting a Natural Diversity Database (NDDB) review for an encroachment permit requested by Ticket Network Forest LLC for property at 60 South Frontage Road;
- c) Letter from Elaine Hinsch of CT DEEP, 10/7/2011, to Andrew Morrill, CT DOT, reporting on NDDB review of project at 60 South Frontage Road;
- d) Email sent 10/13/2011 by Andrew Morrill, CT DOT, to Jenny Dickson, CT DEEP, regarding the NDDB review;
- e) Email sent 10/13/2011 by Jenny Dickson, CT DEEP, to Andrew Morrill, CT DOT;
- f) Letter from Charles Drda of CT DOT, 10/13/2011, to Eric Peterson, Gardner & Peterson Associates, LLC, presenting District I review comments on proposed driveway and parking lot.

- ♦ **Leonard Tundermann, Town Planner confirmed for the commission that any work outside of the proposed development area would require further review from the Department of Energy and Environmental Protection (DEEP).**

4.2 Receipt of Applications:

4.2.1 Application [PZ-2011-16] of Beth Browne for a Special Permit to operate a Dog Grooming and Training Business (Dog Essentials, LLC) at #500 Talcottville Road (Ste. 5) (Assessor's ID: Map #09, Block #015T, Lot/Parcel #0021C)

- ♦ **Charles Bardes, seconded by Daniel Sullivan moved a Motion to Receive and Schedule a Public Hearing for November 17, 2011. Motion carried unanimously.**

5. Other Business

5.1 Additional business to be considered should be introduced under PZC meeting agenda item "#2.1 Amendment / Adoption of Agenda" at the beginning of the meeting.

♦

5.2 The PZC, pursuant to the authority given in CGS §1-200(6)(d) hereby moves to go into Executive Session to discuss pending litigation regarding 670 Dart Hill Road; Town Attorney Harold Cummings and Town Planner Leonard Tundermann are invited to attend.

- ♦ **Victor Riscassi, seconded by William Roch moved a Motion to enter Executive Session and invited Harold Cummings, Town Attorney and Leonard Tundermann, Town Planner to attend. Motion carried unanimously.**
- ♦ **Executive Session began at 7:23 P.M.**
- ♦ **The Commission came out of Executive Session at 7:55 P.M.**

5.3 Discussion regarding Cease and Desist Letter dated August 5, 2011 regarding keeping of chickens.

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- ♦ Leonard Tundermann, Town Planner indicated that based on the Order the chickens had been removed from the property.
- ♦ Charles Bardes questioned if other sites had received enforcement orders.
- ♦ Leonard Tundermann, Town Planner indicated that no other site had enforcement action.

6. Adjournment.

- ♦ Stanley Cohen, seconded by Daniel Sullivan moved a motion to adjourn. Motion carried unanimously.
- ♦ Meeting Adjourned at 7:58 P.M.

James Krupienski Recording Secretary

Attachment M

Jennifer Roggi
2 Pineview Dr.
Vernon, CT 06066
January 19, 2012

Mr. Chester Morgan
Vernon Planning and Zoning Commission
14 Park Place
Rockville, CT 06066

Dear Mr. Morgan and Commissioners:

I am here to respectfully ask that you deny this application. I feel the process by which these changes were undertaken was not handled properly and has left you in a tough position. Former Mayor Jason McCoy not only spent money that you had in your budget to do this, but he did so intentionally excluding the Town Planner and without the consent of the Town Council. It is unusual for a Mayor to undergo such a drastic overhaul of regulations.

Legal or not, for the former Mayor to do this, it begs one to question, WHY? What prompted Mayor Jason McCoy to initiate such a random yet drastic shift of uses from Special Permit to Permitted Uses? Why did he rush the customary process of waiting for the POCD to be completed? Why did he cross the Town Planner right out of the process? What was he worried about Mr. Tundermarin knowing? What was the motivation for each of these changes? Why should you as the Commission have to guess at these questions? You should have been part of the process and should not have to back into the answers.

Having reviewed these changes, I feel what is being asked of you is that you relinquish power of discretion in many areas. As business owners and residents we rely on you to consider special permit applications for compatibility, public health and safety, nuisance and future sound development in this town. If you accept these regulations you will not be permitted to hold them against the special permit regulations that allow you to apply these criteria. You will be only be checking them for side yards and other site plan compliance, but not for the things mentioned above. Even if you ask for public comment on a particular application, you cannot make it a special permit all of a sudden and require them to comply with section 17. This is a serious problem.

Additionally, the regulations seem even harder to follow with these changes and cross references, and missing definitions. The overhaul of the Vernon Zoning regulations will still have to happen, so you will be doing this again only this time you will be part of the process and Your budget has been reduced to do so.

Please do not give up your power to manage development in Vernon. It is the reason we have a Planning and Zoning Commission and we would like you to retain that discretion.

For these reasons, and many more I respectfully ask you to deny this application. It is within your legislative power to deny it. The "Town of Vernon" should support your decision to do so.

Sincerely,

Jennifer Roggi

Attachment N

Amy Blaymore Paterson, Esq.
74 Box Mountain Drive
Vernon, CT 06066
(860) 647-9986

January 19, 2012

Chester W. Morgan, Chairman and Members
Vernon Planning & Zoning Commission
Town of Vernon
14 Park Place
Vernon, CT 06066

Re: Application # PZ-2011-17/Proposed Amendments to Zoning Regulations

Dear Chairman Morgan and Members of the Planning & Zoning Commission:

Thank you for this opportunity to comment on the above referenced application. I regret that I am unavailable to attend the public hearing to address you personally. I strongly oppose the proposed changes and respectfully urge the Commission to deny the application.

I have been actively involved in land use work for over twenty-five years. In addition to serving our town as a volunteer on a number of commissions and committees, I have spent my career working as a land use attorney, a project manager for the Trust for Public Land, and presently as the Executive Director of the Connecticut Land Conservation Council. Throughout my career I have worked extensively with municipalities, landowners, land trusts and other entities throughout the state and, while I submit these comments on my own behalf as a Vernon resident, I base my opinions on my professional expertise.

My objections to the proposed amendments are as follows:

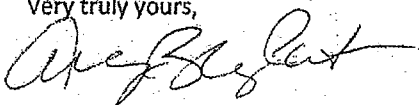
1. By changing the subject uses from those that are specially permitted to those that are permitted by right, the amendments severely curtail the Planning & Zoning Commission's statutorily enabled oversight responsibilities and its ability to evaluate applications and apply regulatory criteria on a case by case basis.
2. By serving to remove the public hearing requirement for many applications in all zoning districts, the amendments severely restrict the public's ability to participate in the community's land use planning process -- contrary to recommendations set forth in the town's Plan of Conservation and Development (POCD) and to smart growth principles being implemented by other municipalities throughout the state.
3. By limiting the need for many special permits -- thereby necessitating only site plan approval -- the amendments raise the risk of an automatic approval should the commission fail to act within the time frames set forth by the Connecticut General Statutes.
4. The proposed amendments would serve to undermine the changes that have been proposed by outside consultants through the exhaustive review and amendment process of the town's POCD.

In short, while the proposed amendments were purportedly submitted as a way to "streamline" the regulatory process and make the town more "business friendly", I contend that these amendments will serve to accomplish just the opposite. Indeed, experience in our town and throughout the state has shown us that restricting public input and proper oversight by the town's zoning commission will likely serve to increase the risks of arbitrary and inconsistent decision-making and of litigation.

For the foregoing reasons, I respectfully request that the application be denied.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Amy Blaymore Paterson". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Amy Blaymore Paterson